

LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/24-199 - Environmental Information Regulations 2004 (EIR)

Request Details:

A copy of the investigation file relating to the following press release:

On 6 February 2024 DAERA put out the following statement in a press release: “County Down farmer, Alan Wilson (56) from Lurgan Road, Dromore was convicted today at Craigavon Magistrates’ Court for a water pollution offence.” “The Court heard that dead fish were confirmed in the River Lagan, on the evening of 23 August 2022.”

Brief description of the Personal Data falling within the scope of the request.

The data contains names, addresses including email telephone numbers and other personal information of NIEA staff, professional persons from outside the agency, and members of the public which is not that of the requestor.

LAWFULNESS

Please identify the lawful bases for processing.

Personal data is processed when it is lawfully disclosed in response to an FOI / EIR request. The lawful bases for processing are set out in Article 6 of the GDPR and the ICO expects at least one of two lawful bases (Consent / Legitimate Interest) to apply before the personal data held can be disclosed.

- Consent:** This will apply when the data subject(s) clear consent exists that allows you to disclose the personal data falling within the scope of this request.
- Legitimate interests:** the processing is necessary for the Department’s legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

Consideration of Legitimate Interests

1. PURPOSE

As the disclosure of personal data under FOIA or EIR is a disclosure to the world at large, doing so on the strength of a requester’s private interests alone could constitute a disproportionate and unwarranted level of interference with the data subject(s) rights and freedoms, particularly their right to privacy and family life under the Human Rights Act 1998. This request is to form the basis of an independent private legal action in relation to water pollution which NIEA has submitted to the Public Prosecution Service and had rejected for prosecution enforcement action.

2. NECESSITY

The right of access under FOI or EIR does not in itself constitute a pressing social need.

The Department has considered and not identified any such need for the data subject's right to privacy to be interfered with.

CONCLUSION

Having considered all of the information contained within this test, the Department has established that, on balance, there is a lawful basis [alternatively state if no lawful basis exists] for the disclosure of third-party personal data falling within the scope of the request [of which the requester is not the data subject.]

[REDACTED]

[REDACTED]

[REDACTED]